

1 UNITED STATES DISTRICT COURT
2
3

DISTRICT OF OREGON

4 DENISE and KENNETH COOK,
5
6

v.
7 Plaintiffs,

BENEFICIAL OREGON, INC., and
8 SHAPIO & SUTHERLAND, LLC,
9

Case No. 10-cv-3121-PA

AFFIDAVIT OF VENA SEN-CROWE

Defendants.

STATE OF OREGON }
9 County of Multnomah } ss.

10 I, Vena Sen-Crowe, being first duly sworn, depose and say:

11 1. I am employed by Nationwide Process Service, Inc., 1201 SW 12th Avenue, Suite
12 420, Portland, Oregon 97205 ("Nationwide"). For the last seven years, it has been my job to
13 communicate non-judicial foreclosure sale information and postponement information to sale
14 agents that we hire to conduct such public sales and to postpone the sale to another date by public
15 proclamation, when necessary.

16 2. I have worked with Richard Magatelli, who has served as trustee's sale agent for
17 Nationwide in Josephine County, for the last two years. Over the last two years, Magatelli has
18 been consistently prompt in both conducting trustee's sales at the courthouse and publicly
19 proclaiming the postponement of a sales. In all instances, he advises whether any interested
20 parties are present and/or whether any witnesses exist at the scheduled sale location. When third-
21 party sales have been made, he is prompt to notify me and to confirm that the successful bidder
22 has properly endorsed checks and obtains all necessary vesting and contact information.

23 / / /

1 3. My daily practice is to maintain a separate log manifest associated with each
2 trustee's sale. In that log, I document when I receive instructions from my client and when I have
3 passed this information to the sale agents at the various courthouses in Oregon. How and when I
4 transmit or receive information in connection with a trustee's sale is documented in the Trustee's
5 Sale Manifest.

6 4. On December 17, 2010 at 10:31 a.m., I received an email from my client, LPS –
7 Agency Sales and Posting, to postpone the Denise and Kenneth Cook sale ("Cook sale"), then
8 scheduled for 11:00 a.m., to January 5, 2011 at 11:00 a.m. I logged this information into the
9 Trustee Sale Manifest.

10 5. On December 17, 2010 at 10:57 a.m., I was on the phone with Richard Magatelli
11 and providing him with final instructions regarding two sales that we had assigned to him to
12 conduct at the Josephine County Courthouse at 11:00 a.m. on that date. At that time, Magatelli
13 had indicated to me that he was present at the front entrance to the Josephine County Courthouse
14 and that no one was present either inside or outside the courthouse front entrance. I directed
15 Magatelli to postpone the Cook sale, identified between us by both the grantor's last name and
16 "ASAP #3675820," to January 5, 2011 at 11:00 a.m. I then provided postponement information
17 regarding the second sale Magatelli was also scheduled to cry at 11:00 a.m. Our conversation
18 lasted approximately one minute. It is my practice to document the time to reflect the time I got
19 off a call, as opposed to documenting in the log manifest the time at which the conversation
20 began. In this instance, I noted the time of the call between Magatelli and me ending at 10:59
21 a.m., which I took from my office clock. I logged this information into the Trustee Sale
22 Manifest. However, the NEC telephone auto-logging system at Nationwide reflects that our call
23 ended at 10:58 a.m. and that the call lasted exactly 60 seconds.

6. On December 17, 2010 at 11:44 a.m., Magatelli faxed the executed Postponement of Trustee's Sale script to Nationwide, which reflects that at 11:00 a.m. that morning, he effectively postponed the Cook sale by public proclamation to January 5, 2011 at 11:00 a.m.

4 7. On December 17, 2010 at 3:30 p.m., I spoke with Magatelli by telephone on
5 another matter. At that time, I again confirmed the non-existence of any interested parties or
6 witnesses at the time of reading the two earlier postponements at the front entrance of the
7 Josephine County Courthouse. He confirmed to me that no one, interested or otherwise, was
8 present during the entire reading of both postponement scripts. This information is reflected in
9 my notes as "NOP," meaning no one present. If people were present, but no interested parties,
10 then my notes would have reflected the acronym "NIP," meaning no interested parties.

11 8. A copy of the Trustee's Sale Manifest used by me on December 17, 2010 to
12 document and log the exchange of information between my client and the sale agent, Richard
13 Magatelli, is attached hereto and incorporated herein as Exhibit "A."

I declare under penalty of perjury that the above statements are true and correct

Vena Sen-Crowe (4740.249916)
Vena Sen-Crowe

SUBSCRIBED AND SWORN to before me this 1st day of April 2011, by Vena Sen-Crowe.



Darci E. Gislason
Notary Public for Oregon